

Internal Revenue Service

Appeals Office
San Jose Appeals, HQ-7100
55 S. Market St., Suite 516
San Jose, CA 95113

Release Number: **201241018**

Release Date: 10/12/2012

Date: July 19, 2012

Department of the Treasury

Taxpayer Identification Number:

Person to Contact:

Employee ID Number:

Tel:

Fax:

Contact Hours:

Tax Period(s) Ended:

UIL:

0501.07-00

0511.02-00

Dear

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(7).

The revocation of your exempt status under Code section 501(c)(7) because you have not conducted any social functions for members and your non-member income in the form of dividend and interest has exceeded the allowable percentage under said section.

You also do not qualify under Code section 501(c)(2) because you are not organized as a title holding company and you have not turned over excess income, which has been accumulated year after year, to your member organizations.

You are required to file Federal income tax returns on Forms 1120 for the tax period stated in the heading of this letter and for all tax years thereafter. File your return with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit www.irs.gov.

Please show your employer identification number on all returns you file and in all correspondence with Internal Revenue Service.

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court. The Taxpayer Advocate can however, see that a tax matters that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit www.irs.gov/advocate for more information.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely Yours,

Karen A Skinder
Appeals Team Manager

cc:



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
Mail Code 4900DAL
1100 Commerce St.
Dallas, TX 75242

June 15, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear . . .

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
ORG		December 31, 20XX

LEGEND

ORG - Organization name XX - Date CO-1, CO-2, CO-3 & CO-4 = 1ST, 2ND, 3RD & 4TH COMPANIES

ISSUES

1. Should the tax exempt status of an organization exempt under 501(c)(7) of the Code be revoked, whose primary function is holding title to and providing upkeep for a building used by several fraternal organizations?
2. Does the organization qualify under 501(c)(2) of the Code as a title holding company?

FACTS

The organization listed above received exemption in 19XX as a social club described in 501(c)(7) of the Code. According to its Bylaws, the organization was formed for the purposes of:

"receiving subscriptions, donations and bequests of money and other property, real and personal, and of holding, managing, controlling, expending and incumbering the same to secure loans and erecting, finishing, furnishing, controlling and managing a building or buildings for the use of CO-1; CO-2, CO-3, CO-4,..."

The ORG, Inc. (ORG) is a membership organization comprised of four fraternal/Masonic organizations. The ORG holds title to the property and handles the day to day operations of the facility, ultimately insuring the building is usable by the member organizations. All social functions that take place at the facility are run by the member organizations. ORG does not participate or organize these functions.

The main sources of income for the ORG are membership dues and rents (from the member organizations) and investment income. The organization does not have a "parent" organization and retains earnings and income from year to year.

ISSUE 1

Should the tax exempt status of an organization exempt under 501(c)(7) of the Code be revoked, whose primary function is holding title to and providing upkeep for a building used by several fraternal organizations?

LAW

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

Section 501(c)(7) of the Code exempts from federal income tax clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1(a) of the regulations explain that exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

Rev. Rul. 66-149, 1966-1 C.B. 146, states that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns.

TAXPAYER'S POSITION

The taxpayer's position has not been determined at this time.

GOVERNMENT'S POSITION

ORG is not eligible for exemption under 501(c)(7) of the Code as a social club. Section 501(c)(7) of the Code exempts from federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes. The organization does not meet the criteria as there are no social activities.

The purpose of the organization is to "secure loans and erecting, finishing, furnishing, controlling and managing a building or buildings for the use of the four Masonic bodies..." The scope of their stated mission is outside that allowed for social clubs exempt under 501(c)(7) of the Code. As their organizing document does not meet the organizational test required for exemption under 501(c)(7) of the Code, the organization does not qualify for exemption under this code section.

Rev. Rul. 66-149, 1966-1 C.B. 146, states that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. ORG's main source of income is dividends and interest.

CONCLUSION

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

As ORG is not organized as a social club, has no recreational activities and receives a substantial amount of its revenue from non-member sources, including investment income, they do not qualify for exemption under 501(c)(7) of the Code.

ISSUE 2

Does the organization qualify under 501(c)(2) of the Code as a title holding company?

LAW

Section 501(c)(2) of the Code exempts from federal income tax corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

Treas. Reg. § 1.501(c)(2)-1(b) explains that a corporation described in section 501(c)(2) cannot accumulate income and retain its exemption, but it must turn over the entire amount of such income, less expenses, to an organization which is itself exempt from tax under section 501(a).

Rev. Rul. 58-566, 1958-2 C.B. 261 states that in part, an organization incorporated with broad powers and business purposes beyond the scope of those necessary to a holding company, did not qualify for exemption under 501(c)(2) of the Code.

Santa Cruz Building Associations v. United States of America, 411 F.Supp. 871, 37 A.F.T.R.2d 76-1314, 76-1 USTC P 9374, found that a building association did not qualify for exemption under 501(c)(2) of the Code that retained more income than needed to cover noORGI operational expenses.

TAXPAYER POSITION

The taxpayer's position has not been determined at this time.

GOVERNMENT'S POSITION

Section 501(c)(2) of the Code exempts from federal income tax corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section (subsection a). ORG does not turn its income over to another organization.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

Treas. Reg. § 1.501(c)(2)-1(b) explains that a corporation described in section 501(c)(2) cannot accumulate income and retain its exemption, but it must turn over the entire amount of such income, less expenses, to an organization which is itself exempt from tax under section 501(a). ORG accumulates its income in a savings account. The 20XX end of year cash in a savings account was \$. This amount was indicated as the beginning year balance for 20XX, and accumulated to an end of year balance of \$.

Rev. Rul. 58-566, 1958-2 C.B. 261 states that in part, an organization incorporated with broad powers and business purposes beyond the scope of those necessary to a holding company, did not qualify for exemption under 501(c)(2) of the Code. The purpose of ORG as stated in their organizing document is for "receiving subscriptions, donations and bequests of money and other property, real and personal, and of holding, managing, controlling, expending and incumbering the same to secure loans and erecting, finishing, furnishing, controlling and managing a building or buildings..." These purposes and powers are beyond the scope of holding title to property, collecting income thereof and turning over this income to a parent organization.

CONCLUSION

As ORG does not turn over its income to another organization exempt under 501(a) of the Code, accumulates income in a savings account and was organized with purposes beyond the scope of a title holding company, they do not qualify for exemption under 501(c)(2) of the Code.